

LEGISLATIVE BRANCH WHISTLEBLOWING

OVERVIEW

The Legislative Branch workforce is comprised of both congressional employees and the employees of several [legislative agencies](#). Unlike the Executive Branch, the Legislative Branch does not fall under an overarching whistleblower statute that provides protections for employees who make disclosures evidencing waste, fraud, or other misconduct. However, limited processes do exist for Legislative Branch employees to make protected disclosures and, in some instances, seek protection from retaliation pursuant to the [Congressional Accountability Act](#) (CAA).

Legislative Branch employees considering blowing the whistle should first consult an attorney experienced in employment law.

CONGRESSIONAL ACCOUNTABILITY ACT

The Congressional Accountability Act (CAA) applies thirteen federal workplace discrimination, harassment, and safety laws to the Legislative Branch. Covered employees include [most](#) legislative branch staff, former staff, and applicants. The law also protects interns (both paid and unpaid), detailees, and fellows.

[Section 207](#) of the CAA (codified at 2 U.S.C. §1317) prohibits an employing office from retaliating against a covered employee for exercising their rights under the law, including reporting misconduct that is relevant to the law's protections such as an unsafe workplace or discrimination.

The CAA is administered by the [Office of Congressional Workplace Rights](#) (OCWR), which is available to provide confidential consultations to employees. The [Office of Employee Advocacy](#) is available to provide confidential consultations and legal counsel to House employees. The [Office of House Employment Counsel](#) (OHEC) can provide similar services to House managers.

CONGRESSIONAL WHISTLEBLOWERS (HOUSE AND SENATE EMPLOYEES)

Legislative Branch employees who work for the House of Representatives or Senate can make disclosures concerning alleged misconduct to several offices that may investigate the disclosure. However, staff are not explicitly protected by federal law from retaliation for doing so outside of disclosures under the Congressional Accountability Act as described above.

OFFICES THAT ACCEPT AND/OR INVESTIGATE CONGRESSIONAL WHISTLEBLOWER DISCLOSURES

- The [House Ethics Committee](#) accepts disclosures and may investigate and adjudicate alleged violations of House rules and related statutes by House Members, officers, or employees. It has the authority to adjudicate alleged violations of House rules. Anyone can report misconduct to the Committee and individuals may seek a confidential consultation before reporting an allegation for investigation.
- The [Office of Congressional Ethics](#) receives and reviews allegations of misconduct concerning House Members, officers, or employees. Where the Office's Board finds an allegation to be meritorious, it will refer the matter to the House Ethics Committee. The Office conducts a formal review of misconduct allegations it receives, and if the Board finds that misconduct occurred, the reports and findings of the Office will eventually become public, regardless of the House Ethics Committee's decision on the matter.
- The [House Office of the Inspector General](#) receives and investigates allegations related to fraud, waste, or mismanagement within the administrative functions of the House.
- [The Senate Select Committee on Ethics](#) accepts, investigates, and conducts adjudicatory reviews of improper conduct or allegations that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of their duty.

PROHIBITING RETALIATION – HOUSE CODE OF OFFICIAL CONDUCT

As adopted by the [House rules for the 117th Congress](#), clause 20 of rule XXIII (the Code of Official Conduct) prohibits a House Member, Delegate, Resident, Commissioner, officer, or employee from taking any actions to prevent an individual from, or to retaliate against an individual for, providing truthful information to the Committee on Ethics, the Office of Congressional Ethics, the Office of Congressional Workplace Rights, or any law enforcement official, provided that the disclosure of such information is not otherwise prohibited by law or House rules.

Note that this is a House-specific provision and does not prohibit actions taken by those outside of the House.

A NOTE ON CONFIDENTIALITY – HOUSE CODE OF OFFICIAL CONDUCT

Clause 21 of the [Code of Official Conduct](#) for the House prohibits a House Member, officer, or employee from publicly disclosing the identity of, or personally identifiable information about, any individual who has reported allegations of wrongdoing, including unlawful whistleblower retaliation, pursuant to any federal law that establishes a right to make protected disclosures to Congress.

Note that several important exceptions to the confidentiality rule exist: The individual's express prior written consent to the release of their identity; voluntary prior public disclosure of the individual's identity; or release by a committee Chair following a two-thirds vote by committee members that releasing the individual's identity is in the public interest.

LEGISLATIVE BRANCH AGENCY WHISTLEBLOWERS

Some Legislative Branch agencies have formal or informal processes in place to review employee allegations of misconduct. These review processes, sometimes administered by Legislative Branch offices of inspectors general, may offer employees confidentiality. Most legislative branch agencies are covered under the Congressional Accountability Act. The full list of covered agencies is available on [OCWR's website](#).

GOVERNMENT PUBLISHING OFFICE (GPO)

Employees of the Government Publishing Office are covered under the Whistleblower Protection Act pursuant to [5 U.S.C. §2302\(a\)\(2\)\(C\)](#). Disclosures of alleged misconduct may be made to the [GPO Office of Inspector General \(OIG\)](#) or other audiences under the Whistleblower Protection Act. Regarding allegations of unlawful whistleblower retaliation, the OIG refers complainants to the Office of Special Counsel, the Merit Systems Protection Board, or GPO's Equal Opportunity Office per the OIG's website.

UNITED STATES CAPITOL POLICE (USCP)

United States Capitol Police employees may make disclosures of alleged misconduct through several channels, in addition to OCWR. The [Office of Professional Responsibility \(OPR\)](#) receives and investigates internal and external allegations of misconduct by USCP employees. Its internal policies prohibit retaliation against employees who make disclosures. The [Office of Inspector General \(OIG\)](#) conducts oversight of USCP programs and operations. Its [authorizing statute](#) requires that the IG maintain employee whistleblower confidentiality in most circumstances and prohibits retaliation against good faith disclosures. The OIG may refer some disclosures to the OPR for investigation. Both offices offer confidential consultation and accept anonymous disclosures. Unionized employees may also make protected disclosures and file grievances through their respective union – the [USCP Labor Committee](#) or [Teamsters](#).

ADDITIONAL RESOURCES

- ❖ [Legislative Branch Whistleblowing Resources](#) – House Office of the Whistleblower Ombuds.
- ❖ House Office of Employee Assistance (OEA) – Confidential support services and resources available to assist House employees and their family members. [HouseNet website](#); employee.assistance@mail.house.gov.
- ❖ [House Office of General Counsel](#) – Provides legal advice and representation to Members, committees, officers and employees of the House, without regard to political affiliation, on a variety of matters related to their official duties. [HouseNet website](#); (202) 225-9700.

Please Note: The House Office of the Whistleblower Ombuds DOES NOT receive whistleblower disclosures. It is an independent nonpartisan support office established to advise House offices on best practices for working with whistleblowers.